

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KENTRELL D. WELCH,

Plaintiff

Case No. 2:19-cv-01241-RFB-BNW

ORDER

v.

JAMES DZURENDA, et al.,

Defendants

I. DISCUSSION

Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), has filed a civil rights complaint, a first amended complaint, and two “declarations.”¹ (ECF Nos. 1-1, 2-1, 5, 6.) It is not clear what the purpose of the declarations is, but it appears that Plaintiff wants the Court to consider the allegations in his declarations together with his amended complaint.

The Court will not piecemeal Plaintiff’s complaint together from multiple filings. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. As such, the Court grants Plaintiff leave to file a fully complete second amended complaint within 30 days. If Plaintiff does not file a fully complete amended complaint, the court will screen his first amended complaint (ECF No. 2-1) and will not consider any allegations in Plaintiff’s additional filings.

If Plaintiff chooses to file a second amended complaint, he is advised that a second amended complaint supersedes (replaces) the original complaint, and any previously filed amended complaints, and, thus, the second amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is

¹ The Court notes that it previously issued this order on July 14, 2021. (ECF No. 11.) However, the Court’s order was returned as undeliverable. (ECF No. 12.) The Court believes that the delivery issues have been resolved and is now resending this order to Plaintiff.

1 irrelevant; an amended pleading supersedes the original"); see also *Lacey v. Maricopa*
2 *Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice,
3 a plaintiff is not required to reallege such claims in a subsequent amended complaint to
4 preserve them for appeal). Plaintiff's second amended complaint must contain all claims,
5 defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit.
6 Moreover, Plaintiff must file the second amended complaint on this Court's approved
7 prisoner civil rights form, and it must be entitled "Second Amended Complaint."

8 **II. CONCLUSION**

9 For the foregoing reasons, IT IS ORDERED that Plaintiff is granted leave to file a
10 single complete second amended complaint. If Plaintiff chooses to file a second amended
11 complaint, Plaintiff will file the second amended complaint within 30 days from the date
12 of entry of this order.

13 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
14 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
15 initial complaint, the first amended complaint, and his declarations (ECF Nos. 1-1, 2-1, 5,
16 6). If Plaintiff chooses to file a second amended complaint, he must use the approved
17 form and he will write the words "Second Amended" above the words "Civil Rights
18 Complaint" in the caption.

19 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a second amended
20 complaint, the Court will screen the first amended complaint (ECF No. 2-1) only and will
21 not consider any allegations in Plaintiff's declarations.

22 DATED: August 20, 2021.

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24 _____
25 United States Magistrate Judge
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